

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JEFFREY ZABORSKI,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

Defendant.

Case No. 17-CV-406-JPS

ORDER

Jeffrey Zaborski filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1, #2). The Court may grant Plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) Plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) Plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who. . . would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). In his motion for leave to proceed *in forma pauperis*, Plaintiff made statements about his income, expenses, and assets under oath. (Docket #2). He avers that he is unemployed, has no source of income, no car or home, and has only \$10 in a bank account. *Id.* at 2–3. Although he has no expenses, this appears to be because he is homeless. *Id.* at 2–4. These representations satisfy the Court that Plaintiff is indigent and cannot afford the filing fee.

Plaintiff's action also is not frivolous or malicious. Plaintiff submitted a complaint which includes allegations that the Administrative Law Judge

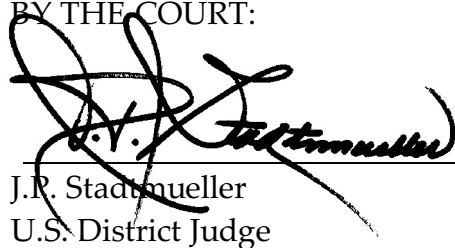
("ALJ") erred in reaching a decision. (Docket #1 ¶¶ 7-8). If that contention is true, then the Court will be obliged to vacate the ALJ's decision. Thus, Plaintiff's action is neither frivolous nor malicious.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to *proceed in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin this 22nd day of March, 2017.

BY THE COURT:



J.R. Stadtmueller
U.S. District Judge